

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA,

v.

**DARIN DELANCEY,
Defendant.**

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Crim. No. SA-09-CR-420(1) FB

ORDER OF DETENTION

The matter before the court is the petition for action on conditions of pretrial release (docket entry 168) which alleges that defendant violated a condition of his release on June 14 by submitting a urine specimen testing positive for amphetamine, and requesting revocation and detention.

The parties appeared for a hearing on the motion on this date. Previously, defendant plead guilty to conspiracy to possess with intent to distribute marijuana, and was sentenced to 46 months confinement with a report date of October 18, 2010.

Pursuant to 18 U.S.C. §3143(a)(2), a defendant who is awaiting sentencing shall be detained unless he can prove by clear and convincing evidence that he is not a flight risk or danger to the community; and further, the Court finds that there is a substantial likelihood that a motion for new trial or for acquittal will be granted or no sentence of imprisonment has been recommended by the government.

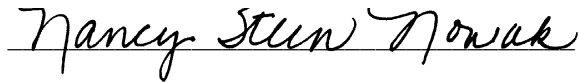
Defendant was sentenced after pleading guilty. Neither acquittal or a new trial is likely, and he has been sentenced to 46 months confinement. The government proffered evidence that defendant submitted a positive urine specimen just 3 days after his sentencing.¹ Defendant's proffer that an independent drug test administered in early July -- several weeks after the positive specimen was submitted to pretrial services -- tested negative for the presence of drugs does not rebut the evidence

¹Witnesses were present at the hearing to testify to both chain of custody and the confirmation of the drug specimen on June 28 by Kroll Laboratories.

offered by the government. Finally, defendant was arrested on May 11 for possession of methamphetamine and xanax, and for driving without required vehicle inspection and license. He reported at today's hearing that he does not expect to challenge the state charges. In light of his history of noncompliance with conditions of release and the status of this case, 18 U.S.C. §3143(a)(2) requires that defendant be detained.

It is therefore ORDERED that defendant be detained to begin service of his sentence.

SIGNED on July 9, 2010.

A handwritten signature in black ink that reads "Nancy Stein Nowak". The signature is written in a cursive, flowing style.

NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE